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Citation for published version:

Cairns, JW Conference: Directions in legal history and Roman law.

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Conference: Directions in Legal History and Roman Law

Posted on [10/07/2017](#) by [John Cairns](#)

On 6 July 2017, the University of Edinburgh awarded the degree of LL.D. honoris causa to Wolfgang Ernst, Regius Professor of Civil Law in the University of Oxford. At the same ceremony two Ph.D. students in legal history graduated with their doctorate: Asya Ostroukh, whose thesis is entitled “Reception of the French Civil Code in Francophone Switzerland, Louisiana, and Quebec: A Socio-Legal Study”, and Ilya Kotlyar, whose thesis is entitled “The Influence of the European Jus Commune on the Scots law of succession to moveables: 1560-1700”. These three happy events encouraged the Centre for Legal History, with the support of the School of Law, to organise a small conference entitled “Directions in Legal History and Roman Law”, involving the new graduates and some current PhD students, to showcase the diversity of the research in the Centre.

Asya Ostroukh, now Senior Lecturer in Law, University of the West Indies, gave a paper entitled “Exclusion and Inclusion of the French Law on Neighboring Plots of Land in the Civil Codes of Quebec, Louisiana and Francophone Switzerland: Some Reflections on the Relation between Law and Society”. She explored the way in which none of the codes she discussed copied the detail of the French law and discussed the reasons why this was so.

The second paper, “The Northern Circuit of the Justiciary Court and the Regality of Grant, 1708-1750”, was delivered by Charles Fletcher, a current, full-time, Ph.D. student just finishing his first year. His thesis focuses on the regality court; but he explored how its work was affected by the development of the Justiciary jurisdiction, after the institution of regular circuit courts in 1708. The paper highlighted the continuing significance of the regality court, while also showing why certain prosecutions were taken to the Justiciary court.

Ilya Kotlyar, currently Postdoctoral Researcher, University of Tilburg, the Netherlands, spoke on “The Historical Scots Law of Succession in a Civilian Perspective”. Along with some general remarks, and discussion of the impact of politics on the Commissary Court, the paper discussed testamentary practices and the use of various devices to avoid the effects of Scots common law, as in many ways Scots sought methods to achieve freedom in disposing of their moveable and heritable property.

This was followed by a paper entitled “The Economics of Property Rights in the Ship in Roman Law”, delivered by Peter Candy, a Ph.D. student about to enter his third year of study. He explored how New Institutional Economics can be deployed in a subtle and nuanced way to understand issues in Roman law, in particular how Roman law provided incentives to possessors to behave as owners.

The final paper was given by Professor Wolfgang Ernst and was entitled: “Insulam exurere – reading Coll. 12,7,1-3 closely”. Professor Ernst provided a close discussion of the text of Ulpian as found in both the Collatio and the Digest, suggesting that there were changes in the Digest version that reflected neither the textual history but rather an editing decision of the compilers. He also explained what he thought was the original context of part of the text, as a responsum of Labeo.

The conference aimed to give plenty of time for speakers and discussion, and indeed there was much debate over the papers. Notable amongst those attending were Professor Jean-Jacques Aubert of the Université de

Neuchâtel and Professor Emeritus Laurens Winkel of Rotterdam. It was a successful exercise in discussion of their research by scholars from junior to senior, which benefited all.

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